
**OFFICE OF
THE INSPECTOR GENERAL**

SOCIAL SECURITY ADMINISTRATION

**SIGNIFICANCE OF ADMINISTRATIVE
FINALITY IN THE SOCIAL SECURITY
ADMINISTRATION'S PROGRAMS**

July 2012

A-08-11-21107

AUDIT REPORT



Mission

By conducting independent and objective audits, evaluations and investigations, we inspire public confidence in the integrity and security of SSA's programs and operations and protect them against fraud, waste and abuse. We provide timely, useful and reliable information and advice to Administration officials, Congress and the public.

Authority

The Inspector General Act created independent audit and investigative units, called the Office of Inspector General (OIG). The mission of the OIG, as spelled out in the Act, is to:

- Conduct and supervise independent and objective audits and investigations relating to agency programs and operations.**
- Promote economy, effectiveness, and efficiency within the agency.**
- Prevent and detect fraud, waste, and abuse in agency programs and operations.**
- Review and make recommendations regarding existing and proposed legislation and regulations relating to agency programs and operations.**
- Keep the agency head and the Congress fully and currently informed of problems in agency programs and operations.**

To ensure objectivity, the IG Act empowers the IG with:

- Independence to determine what reviews to perform.**
- Access to all information necessary for the reviews.**
- Authority to publish findings and recommendations based on the reviews.**

Vision

We strive for continual improvement in SSA's programs, operations and management by proactively seeking new ways to prevent and deter fraud, waste and abuse. We commit to integrity and excellence by supporting an environment that provides a valuable public service while encouraging employee development and retention and fostering diversity and innovation.



SOCIAL SECURITY

MEMORANDUM

Date: July 26, 2012

Refer To:

To: The Commissioner

From: Inspector General

Subject: Significance of Administrative Finality in the Social Security Administration's Programs (A-08-11-21107)

OBJECTIVE

Our objective was to determine whether the Social Security Administration's (SSA) administrative finality policy met the intent of recent legislative changes to reduce improper payments in Federal programs.

BACKGROUND

SSA administers the Nation's largest entitlement program—the Old-Age, Survivors and Disability Insurance (OASDI) program.¹ The OASDI program provides benefits to replace some of the earnings lost because of a worker's retirement, disability, or death.² Payroll taxes paid by workers, employers, and self-employed persons finance these monthly benefits.³ An individual's lifetime taxable earnings determine the amount of benefits they will receive.

SSA also administers the Supplemental Security Income (SSI) program, which provides income for, or supplements the income of, aged, blind, or disabled adults and children with limited income and resources.⁴ Qualified recipients receive monthly cash payments to raise their income to a minimum level guaranteed by the SSI program.

¹ OASDI consists of the Old-Age and Survivors Insurance (OASI) and Disability Insurance (DI) programs. When discussing the programs together, SSA refers to them as OASDI.

² *Social Security Act* § 201 *et seq.*, 42 U.S.C. § 401 *et seq.*

³ OASI and DI trust fund revenues also include interest on trust fund securities, certain technical transfers, and gifts or bequests.

⁴ *Social Security Act* § 1601, *et seq.*, 42 U.S.C. § 1381 *et seq.*; 20 C.F.R. § 416.110.

General tax revenues finance SSI payments. According to SSA, in Fiscal Year (FY) 2011, it paid approximately \$721 billion in OASDI and \$49 billion in SSI to over 60 million beneficiaries and recipients.⁵

Administrative Finality

Administrative finality is the principle that SSA's initial OASDI and SSI determinations of eligibility for payments and payment amounts become final and binding on both parties, unless they are timely appealed or later reopened and revised for certain reasons within certain time periods.⁶ Consequently, if conditions to reopen a determination do not exist or time limits have expired, SSA generally will not revise the benefits and continues to pay the erroneous payment (over- or underpayment) throughout the beneficiary or recipient's lifetime. SSA does not pursue recovery of any resulting overpayments.

SSA bases these discretionary rules on the premise that the Agency and the beneficiary or recipient should be assured the Agency's decisions are correct.⁷ Pursuant to the *Social Security Act*,⁸ the Commissioner of SSA sets the rules regarding administrative finality by regulation, not statute. Appendix B provides further detail on SSA's administrative finality rules for the OASDI and SSI programs.

Improper Payments

Each year, SSA reports its payment accuracy rates, including over- and underpayment dollars, for the OASDI and SSI programs. SSA bases its improper payment findings on stewardship reviews conducted by its Office of Quality Performance (OQP). According to OQP's FY 2010 stewardship review, SSA's net overpayments totaled approximately \$900 million for OASDI and \$2 billion for SSI. That is, SSA's accuracy rate was 99.6 percent for OASDI overpayments and 93.3 percent for SSI overpayments, which totaled a projected \$2.7 billion and \$3.3 billion in excess payments, respectively. SSA's accuracy rate for OASDI and SSI underpayments was 99.8 and 97.6 percent, resulting in a projected \$1.8 and \$1.2 billion in payments rightfully due that went unpaid.⁹ These improper payments included cases where SSA had invoked administrative finality.

⁵ SSA, *Performance and Accountability Report for Fiscal Year 2011*, November 2011, pages 7 and 101. Of the \$721 billion paid for OASDI, approximately \$593 billion was OASI and \$128 billion was DI.

⁶ 20 C.F.R. § 404.988; SSA, POMS, GN 04001.010 (December 22, 1989), GN 04010.001 (September 9, 2011), SI 04070.010 (September 9, 2011), and GN 04020.001 - 04020.110.

⁷ SSA, Administrative Message AM-04020, February 3, 2004.

⁸ §§ 205(a), 1102, and 1631(a)(1); 42 U.S.C. §§ 405(a), 1302 and 1383(a)(1).

⁹ SSA, *FY 2011 Performance and Accountability Report*, November 2011, pages 41 and 42.

SCOPE AND METHODOLOGY

To accomplish our objective, we reviewed our prior reports (Appendix C) that estimated the impact of administrative finality errors on trust fund dollars and current legislation regarding improper payments (Appendix D). We contacted SSA's (1) Office of Income Security Programs to discuss the Agency's position regarding its administrative finality rules and regulations and (2) OQP and confirmed that it did not track or evaluate administrative finality cases. We obtained a data file on beneficiaries who were receiving benefits under more than one Social Security number (SSN) and worked with SSA to identify examples where administrative finality precluded the Agency from collecting and correcting the overpayments. Appendix E provides our scope and methodology.

RESULTS OF REVIEW

Despite SSA's previous disagreement with our recommendation that it revise its administrative finality policy, we continue to believe such change is needed to protect the integrity of program funds. Recent legislation regarding improper payments requires that agencies take action to identify and remedy erroneous payments. Additionally, austere current and future budgets for Federal agencies provide not only an incentive but a fiduciary responsibility to eliminate waste and payment errors. Therefore, we believe the Agency should not continue making incorrect payments.

Fiscal Impact of SSA's Administrative Finality Rules

SSA's administrative finality rules permit it to continue paying incorrect payment amounts to some beneficiaries and recipients. During our prior and current reviews, we determined that SSA did not correct beneficiary and recipients' payment amounts when it invoked administrative finality. For example, we identified a beneficiary receiving a full retirement benefit under her own SSN and another full benefit under her deceased spouse's SSN that resulted in an \$870 monthly overpayment. The overpayments started in July 1982 and created a total overpayment of approximately \$215,000. Since our 2007 recommendation to revise its administrative finality rules, SSA has paid this beneficiary approximately an additional \$40,000.¹⁰

We identified another beneficiary receiving a full retirement benefit under her own SSN and a full benefit under her deceased spouse's SSN that resulted in a \$373 monthly overpayment. The overpayments started in June 1988 and created a total overpayment of approximately \$85,000. SSA had paid this beneficiary approximately \$16,000 since our 2007 recommendation. Because of SSA's administrative finality rules, it will not reopen these cases and these overpayments will continue increasing throughout the beneficiaries' lifetimes. In addition, SSA does not pursue recovery of these types of improper payments.

¹⁰ The total overpayment of \$215,000 includes the \$40,000.

In our 2007 report, *Administrative Finality in the Old-Age, Survivors and Disability Insurance Program*, we identified a beneficiary for whom SSA staff calculated retirement benefits in April 1991. In 1994, the Agency corrected the beneficiary's earnings record by removing earnings incorrectly posted in 1990. Because SSA staff did not recalculate the benefits until 1 year later, the staff invoked administrative finality and did not revise the benefits. Had the Agency revised the benefits when it removed the incorrectly posted earnings—which was within the prescribed administrative finality period—it would have been able to pursue recovery of \$1,368 and avoided paying about \$846 in ongoing payments. Moreover, we estimated that SSA identified over 44,000 individuals whose benefits it had incorrectly calculated but did not revise their payment amounts because of administrative finality. As a result, we estimated that SSA overpaid about \$141 million in OASDI benefits. We also estimated that SSA would pay an additional \$50 million to about 26,000 of these beneficiaries because it did not correct their ongoing benefits.¹¹

In our 2005 report, *Disabled Supplemental Security Income Recipients with Earnings*, we determined that an individual was receiving a reduced payment because her estimated earnings for 2 years were overstated. During our audit, we alerted SSA of the error, but too much time had elapsed, and the Agency did not review the earnings because of administrative finality. We estimated this individual might have been eligible to receive an additional \$1,019 in SSI payments. Based on our sample results, we estimated that, had SSA resolved earnings discrepancies within the administrative finality periods, it would have recognized approximately \$75 million in overpayments to about 61,000 recipients. Additionally, we estimated SSA underpaid about 12,000 SSI recipients approximately \$8 million because the Agency invoked administrative finality and did not revise the recipients' records.¹²

These and other cases identified in our prior reports illustrate the need for revisions to the administrative finality policy. Some individuals have received significant over- or underpayments, and SSA will continue paying the incorrect amounts throughout their lifetimes unless it permits revisions to their ongoing and future payments. These continuing improper payments affect the integrity of Agency trust funds.

¹¹ SSA OIG, *Administrative Finality in the Old-Age, Survivors and Disability Insurance Program* (A-01-07-27029), September 2007, pages 3 and 4.

¹² SSA OIG, *Disabled Supplemental Security Income Recipients with Earnings* (A-01-04-14085), April 2005, pages 3 and 5.

Our review of other agencies' regulations showed that the Railroad Retirement Board and Department of Veterans Affairs have similar administrative finality rules.¹³ Unlike SSA, these agencies permit revisions to ongoing and future payments in certain situations even though administrative finality prevents revisions to previously issued payments.

Alignment of SSA's Stewardship Responsibility with Recent Government Initiative to Reduce Improper Payments

SSA acknowledges that its administrative finality rules impact beneficiary and recipients' benefits or Agency trust funds. SSA believes establishing these discretionary rules advances its stewardship efforts to protect the integrity of Social Security programs. The Agency has stated that its rules were designed to foster public confidence in its decisions by limiting the circumstances in which the Agency may change a decision. Because of these rules, SSA does not revise payment errors unless administrative finality conditions and time limits are met.

On November 20, 2009, Executive Order 13520, *Reducing Improper Payments*, was issued. This Order focused on eliminating payment error, waste, fraud, and abuse in major Government-administered programs. The Order stated that the Government should make every effort to confirm that the right recipient received the right payment and for the right reason at the right time. Additionally, a March 10, 2010 Executive Memorandum, *Finding and Recapturing Improper Payments*, stated that, "Thorough identification of improper payments promotes accountability at executive departments and agencies; it also makes the integrity of Federal spending transparent to taxpayers." On July 22, 2010, *Improper Payments Elimination and Recovery Act of 2010* (IPERA)¹⁴ became law. IPERA requires that Federal agencies report their actions to recover improper payments. For example, agency reporting should include the amounts recovered, outstanding, and determined uncollectable.

We recognize that SSA strives to balance its service commitments to the public with its stewardship responsibilities. We also understand that SSA wants to preserve the public's trust—which is one of its strategic goals—by limiting the circumstances in which the Agency may change a decision that it previously rendered. However, we also believe that for SSA to enhance program integrity and be a responsible steward over taxpayer dollars and program funds, it must continue correcting processes and procedures that prolong payment errors. Given the large amount of dollars involved in SSA's payments, even the slightest error in the overall process can result in millions of dollars in over- or underpayments. To date, SSA has not conducted any analysis to determine costs it would incur by revising its administrative finality rules/regulations. SSA recently told us that it has directed staff to take a critical look at its policy.

¹³ 20 C.F.R. § 261.2(c)(10) and 38 U.S.C. 5112(b)(10).

¹⁴ Pub. L. No. 111-204, 124 Stat. 2224 (codified at 31 U.S.C. 3301 note).

CONCLUSION AND RECOMMENDATION

As the steward of trust fund dollars, SSA is accountable to Congress and the public for how it spends these funds. This includes reducing wasteful spending and accounting for all improper payments. However, SSA's administrative finality rules do not permit it to pursue recovery of or correct any OASDI or SSI payments that do not meet the specific criteria of the rules.

Given the recent Government initiative to reduce improper spending and waste of Federal funds and the current economic environment, we do not believe SSA's administrative finality rules comply with the initiative. SSA should revise its administrative finality rules and allow for revisions to payments to ensure the beneficiary or recipient receives the amount they are due. We believe it is the appropriate business process to ensure the integrity of program funds as these payments affect the trust funds. Accordingly, we recommend SSA evaluate its administrative finality policies and regulations and consider revising the rules to allow for the collection of more debt.

AGENCY COMMENTS AND OIG RESPONSE

SSA agreed with our recommendation. See Appendix F for the Agency's comments.

A handwritten signature in black ink, appearing to read "Patrick P. O'Carroll, Jr.", with a stylized flourish at the end.

Patrick P. O'Carroll, Jr.

Appendices

APPENDIX A – Acronyms

APPENDIX B – Administrative Finality in the Old-Age, Survivors and Disability Insurance and Supplemental Security Income Programs

APPENDIX C – Related Office of the Inspector General Reports

APPENDIX D – Laws Enacted to Reduce Improper Payments in Federal Programs

APPENDIX E – Scope and Methodology

APPENDIX F – Agency Comments

APPENDIX G – OIG Contacts and Staff Acknowledgments

Acronyms

C.F.R.	Code of Federal Regulations
DI	Disability Insurance
FY	Fiscal Year
IPERA	<i>Improper Payments Elimination and Recovery Act of 2010</i>
IPIA	<i>Improper Payments Information Act of 2002</i>
OASDI	Old-Age, Survivors and Disability Insurance
OASI	Old-Age and Survivors Insurance
OIG	Office of the Inspector General
OQP	Office of Quality Performance
POMS	Program Operations Manual System
Pub. L. No.	Public Law Number
SSA	Social Security Administration
SSI	Supplemental Security Income
SSN	Social Security Number
Stat.	Statutes
U.S.C.	United States Code

Administrative Finality in the Old-Age, Survivors and Disability Insurance and Supplemental Security Income Programs

The Social Security Administration (SSA) administers the Old-Age, Survivors and Disability Insurance (OASDI) and Supplemental Security Income (SSI) programs. The OASDI program provides benefits to replace some of the earnings lost due to a worker's retirement, disability, or death, while SSI provides income for, or supplements the income of, aged, blind, or disabled adults and children with limited income and resources. SSA may revise OASDI and SSI benefits under its rules of administrative finality.¹

Administrative finality is the principle that SSA's initial determinations of eligibility for payments and payment amounts become final and binding on both parties unless they are timely appealed or later reopened and revised for certain reasons and within certain periods.² SSA bases its discretionary rules on the premise that the Agency and the beneficiary or recipient should be assured the Agency's decisions are correct. The Commissioner of SSA sets the rules regarding administrative finality by regulation, not statute.³

Under administrative finality, an over- or underpayment is considered improper based on when SSA made the determination and discovered the error. As such, these rules restrict when or whether SSA will reopen or revise determinations. If conditions to reopen do not exist or time limits have expired, SSA generally will not revise the benefits and continues to pay the erroneous payment (over- or underpayment) throughout the beneficiary or recipient's lifetime. Additionally, SSA does not pursue recovery of any resulting overpayments.

SSA has established different conditions and periods for its OASDI and SSI programs, as shown in Tables 1 and 2.

¹ *Social Security Act* §§ 201 *et seq.*, 1601 *et. seq.*; 42 U.S.C. §§ 401 *et seq.*; 1381 *et. seq.*; 20 C.F.R. § 416.110.

² *Id.*

³ *Social Security Act* §§ 205(a), 1102 and 1631(a)(1); 42 U.S.C. §§ 405(a), 1302 and 1383(a)(1).

Table 1: SSA’s Administrative Finality Rules for the OASDI Program

OASDI ⁴	
<i>SSA may reopen and revise an initial OASDI decision or determination:</i>	
TIME PERIOD	CONDITION
Within 1 Year	<ul style="list-style-type: none"> • For any reason.
Within 4 Years	<ul style="list-style-type: none"> • Good cause. <ul style="list-style-type: none"> ➤ A clerical error in computing the benefit. ➤ Evidence considered in making the determination clearly shows on its face that an error was made. ➤ New and material evidence furnished.
At any time (unrestricted)	<ul style="list-style-type: none"> • Determination or decision procured by fraud or similar fault.⁵ • A person filed a claim on the same earnings record as an earlier claimant and allowance of the new claim adversely affected the earlier claim. • A wage earner previously determined to be dead, and on whose earnings record a beneficiary’s entitlement is based, was later found alive. • A claim was denied because of absence of proof of the wage earner’s death, whose death was later established. • Railroad Retirement Board has awarded duplicate benefits on same earnings record. • Gratuitous military service wage credits were granted or denied because another Federal agency certified it had awarded a benefit on such service. • A claim was denied because of lack of insured status of wage earner, who would have been insured given earnings had been properly credited at the time. • Evidence clearly shows on its face that an error was made and the change would be favorable to the beneficiary. • A claimant entitled to benefits based on the earnings of a deceased individual and claimant convicted of felonious and intentional homicide of such deceased individual. • Deemed wage credits for certain persons interned in the United States during World War II. • A criminal conviction affected beneficiary’s right to receive benefits or entitlement.

⁴ 20 C.F.R. § 404.988; SSA, POMS, GN 04001.010 (December 22, 1989), GN 04010.001 (September 9, 2011), and GN 04020.001 - 04020.110.

⁵ Policy defines similar fault as when a person either knowingly makes an incorrect or incomplete statement or conceals information that is material to SSA’s determination. SSA, POMS, GN 04020.010, (February 24, 2012).

Table 2: SSA’s Administrative Finality Rules for the SSI Program

SSI⁶	
<i>SSA may reopen and revise an initial SSI decision or determination:</i>	
TIME PERIOD	CONDITION
Within 1 Year	<ul style="list-style-type: none"> • For any reason.
Within 2 Years	<ul style="list-style-type: none"> • Good cause. <ul style="list-style-type: none"> ➤ A clerical error in computing the benefit. ➤ Evidence considered in making the determination clearly shows on its face that an error was made. ➤ New and material evidence furnished.
At any time (unrestricted)	<ul style="list-style-type: none"> • Determination or decision procured by fraud or similar fault.

⁶ 20 C.F.R. § 416.1488; SSA, POMS, SI 04070.010 (September 9, 2011).

Related Office of the Inspector General Reports

We have issued several reports that discuss the Social Security Administration's (SSA) application of its administrative finality rules in its Old-Age, Survivors and Disability Insurance (OASDI) and Supplemental Security Income (SSI) programs. In these audits, we identified both over- and underpayments for beneficiaries and recipients that SSA did not resolve because administrative finality prevented it from correcting the payments.

SSI Fugitive Felon Project

In September 2003, we issued our *Assessment of the Supplemental Security Income Fugitive Felon Project (A-01-03-23070)*.¹ While we reported that SSA had achieved savings by detecting, recovering, and preventing SSI payments to fugitives, we also stated that it could have realized additional savings through (1) earlier detection of outstanding warrants and (2) a more diligent recovery of incorrect payments issued to fugitives. For example, we found that SSA had issued SSI payments to fugitives with outstanding warrants more than 24 months after their issuance. Because SSA determined fraud or similar fault did not exist, it limited its retroactive reopening of eligibility determinations to the 24 months before the date the Agency discovered the warrants. In total, we estimated that SSA did not pursue recovery for approximately \$126 million in SSI payments issued to recipients for months during which they were fugitives because of its administrative finality rules. We estimated an additional \$12 million that SSA did not detect and would not attempt to recover because of its administrative finality rules. We recommended, and SSA agreed, to provide guidance, training, and oversight of administrative finality decisions to ensure staff applied the rules uniformly to all fugitives.

Disabled SSI Recipients with Earnings

In April 2005, we issued our report on *Disabled Supplemental Security Income Recipients with Earnings (A-01-04-14085)*.² We estimated that SSA overpaid approximately \$12 million to about 12,000 recipients because it did not previously consider all of the recipients' earnings when calculating their SSI payment amounts. We also estimated that, if SSA had resolved the earnings discrepancies within the administrative finality periods, it would have recognized approximately an additional \$75 million in overpayments. Finally, we estimated that SSA did not pay over \$8 million to about 12,000 SSI recipients because it invoked administrative finality and did not revise their SSI records.

¹ OIG Report at <http://oig.ssa.gov/sites/default/files/audit/full/html/A-01-03-23070.html>.

² OIG Report at <http://oig.ssa.gov/sites/default/files/audit/full/html/A-01-04-14085.html>.

We recommended that SSA ensure management adequately controlled and timely resolved any earnings-related diaries resulting from computer matches. SSA agreed with our recommendation and issued a reminder to field office employees to take all appropriate actions to control and properly post recipients' earnings to their Supplemental Security Records.

SSA's Administrative Finality Rules

In July 2005, we issued our audit report on the *Social Security Administration's Administrative Finality Rules (A-01-04-24024)*.³ We determined that SSA did not consistently apply its administrative finality rules for the majority of our sample cases. Although no fraud or similar fault⁴ was found, SSA held some recipients responsible for repaying SSI overpayments that it assessed beyond 24 months, while it did not assess any overpayments for months beyond the administrative finality limit for others. In Appendix E, we estimated that SSA did not assess approximately \$49 million in SSI payments to about 7,800 individuals because of administrative finality. We stated that this figure may have been understated because of the limited data available for some of our sample cases. We were unable to quantify an amount for all cases because the Agency did not routinely obtain evidence of changes that occurred before the 24-month administrative finality limit when fraud or similar fault was not involved. Based on our recommendation, SSA agreed to provide staff comprehensive training and develop specific policies and procedures for staff to follow when revising overpayments involving administrative finality.

Dually Entitled Title II Beneficiaries

In August 2006, we issued our report on *Benefits Paid to Dually Entitled Title II Beneficiaries (A-01-06-26004)*.⁵ Generally, we determined that not all beneficiaries in our population were entitled to the benefits SSA paid them because it had incorrectly calculated the benefits due. In many instances, the errors occurred when SSA took action to combine benefits from separate records into one monthly payment. We estimated the total effect of SSA's calculation errors was approximately \$38 million, including about \$23 million in benefits it already paid and about \$15 million in future benefit payments. However, because SSA invoked administrative finality on some records, we estimated that it would not recover about \$7.7 million that was already overpaid and would continue overpaying about \$10.3 million until the beneficiaries attained full retirement age or died. We recommended, and SSA agreed, to remind employees of the proper procedures to follow when combining benefits into one payment and ensure employees corrected payment errors when they converted disability benefits to retirement benefits.

³ OIG Report at <http://oig.ssa.gov/sites/default/files/audit/full/html/A-01-04-24024.html>.

⁴ Policy defines similar fault as when a person either knowingly makes an incorrect or incomplete statement or conceals information that is material to SSA's determination. SSA, POMS, GN 04020.010, (February 24, 2012).

⁵ OIG Report at <http://oig.ssa.gov/sites/default/files/audit/full/html/A-01-06-26004.html>.

Administrative Finality in the OASDI Program

In September 2007, we issued our report on *Administrative Finality in the Old-Age, Survivors and Disability Insurance Program (A-01-07-27029)*.⁶ We estimated that SSA identified 44,230 beneficiaries whose benefits it had incorrectly calculated, but the Agency did not revise the amounts because of its administrative finality rules. Had the Agency reopened the benefit determinations when it corrected the earnings records, it could have revised the benefits for some beneficiaries because the revision would have occurred within the prescribed administrative finality period. As a result, we estimated SSA paid these individuals about \$141 million more in OASDI benefits than it otherwise would have paid had the errors not occurred. We also estimated about 26,000 of these beneficiaries will be paid an additional \$50 million in the future because their ongoing benefits were not correct when the Agency identified the calculation errors.

This report recommended that SSA consider revising its administrative finality rules that would permit changes to the ongoing OASDI benefit payments whenever it discovered errors. SSA disagreed with our recommendation stating that it was not in the program's best interest to perform ongoing OASDI benefit recalculations because that would require additional administrative resources and/or deferral of other Agency work. Since the Agency established its administrative finality rules, it has implemented an automated system that examines earnings of every retired, disabled, or deceased worker each year to determine whether the worker's primary insurance amount may be recomputed. In these situations, we proposed that SSA could use information from the automated system to correct the payment amount with potentially insignificant cost to the Agency.

SSI Recipients with Unreported Real Property

In June 2011, we issued our report on *Supplemental Security Income Recipients with Unreported Real Property (A-02-09-29025)*.⁷ We determined the accuracy of SSA's determinations of SSI recipients' resources related to real property ownership. After determining an overpayment of \$112,000, SSA determined that approximately half was unrecoverable because of its rules of administrative finality. We found discrepancies with how SSA staff appeared to interpret the rules of administrative finality, as identified in our July 2005 report. We recommended and SSA agreed to train staff on the criteria of similar fault determinations to ensure improper payments it made to SSI recipients with similar characteristics and circumstances were treated similarly when caused by SSI recipients not reporting their resources.

⁶ OIG Report at <http://oig.ssa.gov/sites/default/files/audit/full/html/A-01-07-27029.html>.

⁷ OIG Report at <http://oig.ssa.gov/sites/default/files/audit/full/pdf/A-02-09-29025.pdf>.

Laws Enacted to Reduce Improper Payments in Federal Programs

A number of Federal laws defined requirements for Federal agencies to reduce improper payments in their programs.

- *Improper Payments Information Act of 2002* (IPIA)¹ requires that Federal agencies review their programs and activities annually to identify and report those that are susceptible to significant improper payments and the action they are taking to reduce these payments. IPIA defines an improper payment as any payment that should not have been made or was made in an incorrect amount (including over- and underpayments) under statutory, contractual, administrative, or other legally applicable requirements.
- Executive Order 13520, *Reducing Improper Payments*,² requires that each agency compile a quarterly report on any high-dollar improper payments identified. The Executive Order states, “The purpose of this order is to reduce improper payments by intensifying efforts to eliminate payment error, waste, fraud, and abuse in the major programs administered by the Federal Government, while continuing to ensure Federal programs serve and provide access to their intended beneficiaries.”
- *Improper Payments Elimination and Recovery Act of 2010* (IPERA),³ which amends IPIA, expands Federal agencies’ accountability, transparency, and reporting responsibilities for improper payments. IPERA requires that Federal agencies estimate improper payments⁴ and report actions taken to reduce them. In addition, IPERA requires recovery auditing aimed at identifying and reclaiming payments made in error.

¹ Pub. L. No. 107-300, 116 Stat. 2350 (codified at 31 U.S.C. 3321 note).

² November 20, 2009.

³ Pub. L. No. 111-204, 124 Stat. 2224 (codified at 31 U.S.C. 3301 note).

⁴ Pub. L. No. 111-204 § 2(f)(2), 124 Stat. 2224 (codified at 31 U.S.C. 3301 note).

Scope and Methodology

To accomplish our objective, we:

- Reviewed applicable sections of the *Social Security Act*.
- Reviewed the Social Security Administration's (SSA) regulations, rules, policies, and procedures on administrative finality.
- Reviewed the *Improper Payments Information Act of 2002*, issued November 26, 2002.¹
- Reviewed Executive Order 13520, *Reducing Improper Payments*, issued November 20, 2009.
- Reviewed the President's March 10, 2010 Memorandum, *Finding and Recapturing Improper Payments*.
- Reviewed the *Improper Payments Elimination and Recovery Act of 2010*, issued July 22, 2010.²
- Reviewed prior Office of the Inspector General reports that discussed SSA's administrative finality rules.
- Contacted SSA's Office of Income Security Programs to determine the Agency's current position regarding administrative finality.
- Contacted SSA's Office of Quality Performance and confirmed that it does not track or evaluate administrative finality cases.
- Reviewed SSA's current strategic goal on reducing improper payments.
- Obtained a data file on beneficiaries who were receiving full benefits under more than one Social Security number and worked with SSA to identify examples where administrative finality precluded the Agency from collecting and correcting the overpayments.

¹ Pub. L. No. 107-300, 116 Stat. 2350 (codified at 31 U.S.C. 3321 note).

² Pub. L. No. 111-204, 124 Stat. 2224 (codified at 31 U.S.C. 3301 note).

Our review of internal controls was limited to gaining an understanding of the administrative finality policy. We tested the data obtained for our audit and determined it to be sufficiently reliable to meet our audit objective. The principal entities audited were the Office of Income Security Programs under the Office of the Deputy Commissioner for Retirement and Disability Policy and SSA's field offices and program service centers under the Office of the Deputy Commissioner for Operations. We performed our audit work in Birmingham, Alabama, between July and December 2011. We conducted our audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objective. We believe the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objective.

Agency Comments



SOCIAL SECURITY

MEMORANDUM

Date: July 5, 2012

Refer To: S1J-3

To: Patrick P. O'Carroll, Jr.
Inspector General

From: Dean S. Landis /s/
Deputy Chief of Staff

Subject: Office of the Inspector General Draft Report, "Significance of Administrative Finality in the Social Security Administration's Programs" (A-08-11-21107)—INFORMATION

Thank you for the opportunity to review the draft report. Please see our attached comments.

Please let me know if we can be of further assistance. You may direct staff inquiries to Amy Thompson at (410) 966-0569.

Attachment

**COMMENTS ON THE OFFICE OF THE INSPECTOR GENERAL DRAFT REPORT,
“SIGNIFICANCE OF ADMINISTRATIVE FINALITY IN THE SOCIAL SECURITY
ADMINISTRATION’S PROGRAMS” (A-08-11-21107)**

Recommendation

Evaluate its administrative finality policies and regulations and consider revising the rules to allow for the collection of more debt.

Response

We agree.

OIG Contacts and Staff Acknowledgments

OIG Contacts

Kimberly A. Byrd, Director, Atlanta Audit Division

Theresa Roberts, Audit Manager, Birmingham Office of Audit

Acknowledgments

In addition to those named above:

Hollie Calhoun, Senior Auditor

For additional copies of this report, please visit our Website at <http://oig.ssa.gov/> or contact the Office of the Inspector General's Public Affairs Staff at (410) 965-4518. Refer to Common Identification Number A-08-11-21107.

DISTRIBUTION SCHEDULE

Commissioner of Social Security

Chairman and Ranking Member, Committee on Ways and Means

Chief of Staff, Committee on Ways and Means

Chairman and Ranking Minority Member, Subcommittee on Social Security

Majority and Minority Staff Director, Subcommittee on Social Security

Chairman and Ranking Minority Member, Committee on the Budget, House of Representatives

Chairman and Ranking Minority Member, Committee on Oversight and Government Reform

Chairman and Ranking Minority Member, Committee on Appropriations, House of Representatives

Chairman and Ranking Minority, Subcommittee on Labor, Health and Human Services, Education and Related Agencies, Committee on Appropriations, House of Representatives

Chairman and Ranking Minority Member, Committee on Appropriations, U.S. Senate

Chairman and Ranking Minority Member, Subcommittee on Labor, Health and Human Services, Education and Related Agencies, Committee on Appropriations, U.S. Senate

Chairman and Ranking Minority Member, Committee on Finance

Chairman and Ranking Minority Member, Subcommittee on Social Security Pensions and Family Policy

Chairman and Ranking Minority Member, Senate Special Committee on Aging

Social Security Advisory Board

Overview of the Office of the Inspector General

The Office of the Inspector General (OIG) is comprised of an Office of Audit (OA), Office of Investigations (OI), Office of the Counsel to the Inspector General (OCIG), Office of External Relations (OER), and Office of Technology and Resource Management (OTRM). To ensure compliance with policies and procedures, internal controls, and professional standards, the OIG also has a comprehensive Professional Responsibility and Quality Assurance program.

Office of Audit

OA conducts financial and performance audits of the Social Security Administration's (SSA) programs and operations and makes recommendations to ensure program objectives are achieved effectively and efficiently. Financial audits assess whether SSA's financial statements fairly present SSA's financial position, results of operations, and cash flow. Performance audits review the economy, efficiency, and effectiveness of SSA's programs and operations. OA also conducts short-term management reviews and program evaluations on issues of concern to SSA, Congress, and the general public.

Office of Investigations

OI conducts investigations related to fraud, waste, abuse, and mismanagement in SSA programs and operations. This includes wrongdoing by applicants, beneficiaries, contractors, third parties, or SSA employees performing their official duties. This office serves as liaison to the Department of Justice on all matters relating to the investigation of SSA programs and personnel. OI also conducts joint investigations with other Federal, State, and local law enforcement agencies.

Office of the Counsel to the Inspector General

OCIG provides independent legal advice and counsel to the IG on various matters, including statutes, regulations, legislation, and policy directives. OCIG also advises the IG on investigative procedures and techniques, as well as on legal implications and conclusions to be drawn from audit and investigative material. Also, OCIG administers the Civil Monetary Penalty program.

Office of External Relations

OER manages OIG's external and public affairs programs, and serves as the principal advisor on news releases and in providing information to the various news reporting services. OER develops OIG's media and public information policies, directs OIG's external and public affairs programs, and serves as the primary contact for those seeking information about OIG. OER prepares OIG publications, speeches, and presentations to internal and external organizations, and responds to Congressional correspondence.

Office of Technology and Resource Management

OTRM supports OIG by providing information management and systems security. OTRM also coordinates OIG's budget, procurement, telecommunications, facilities, and human resources. In addition, OTRM is the focal point for OIG's strategic planning function, and the development and monitoring of performance measures. In addition, OTRM receives and assigns for action allegations of criminal and administrative violations of Social Security laws, identifies fugitives receiving benefit payments from SSA, and provides technological assistance to investigations.